

REMARKS

The outstanding issues are as follows:

- Claims 1-47 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lemay et al., “Laura Lemay’s Web Workshop JavaScript,” hereinafter *Lemay*.

Applicant hereby cancels without prejudice the previously-pending claims 1-47, and presents new claims 48-87 herein. For the reasons discussed further herein, Applicant respectfully submits that new claims 48-87 are patentable over the applied *Lemay* reference.

I. AMENDMENTS

Claims 1-47 are canceled without prejudice. New claims 48-87 are added herein.

Support for the limitations in the newly-added claims can be found throughout the specification, drawings, and claims as originally filed (see e.g., Figures 1A-1C, 2A-2B, and 5B and discussions thereof, and page 12, line 8 – page 17, line 2, page 18, line 8 – page 20, line 7, and page 57, lines 1-18 of the specification).

Rather than reciting a “content manifestation environment,” “manifestation,” “window object”, and “content” (as in certain ones of the canceled claims), the newly-added claims do not use these terms. The removal of these terms and phrases is to ensure that the claims are not limited by the corresponding definitions presented in the specification of the present application.

For instance, instead of reciting a “content manifestation environment” (as in certain ones of the canceled claims), some of the newly-added claims, such as new claim 48 recites a “web browser window”. The specification describes various embodiments in which a browser window is displayed, and thus no new matter is introduced by this amendment. “Web browser window” is not restricted by the definition of “content manifestation environment” presented in the specification of the present application.

Rather than reciting a “server system” (as in canceled claim 1), certain ones of the newly-added claims, such as claim 48, recite “a processor-based server system”. This newly-added language is intended to clarify that the “server system” may include one or more processor-based

servers. The server system is recited as being “processor-based” to ensure that it is not encompassing mere non-functional software code. Support for “processor-based” servers can be found at least at the discussion of Figure 1B, *see e.g.*, page 12, line 8 – page 15, line 18 of the specification.

Newly-added claim 48 also recites that the software system is operative to produce “at least one information display within a web browser window”. The specification describes embodiments in which information display(s) are presented within a browser window (e.g., window(s) are presented in the browser window 200 of Figures 2A-2B), and thus no new matter is introduced by this further amendment. Information display, as used in the newly-added claims, is intended to be a broader term than “window object” (which was used in many of the canceled claims) because the term “information display” is not restricted to the specific definition afforded “window object” in the specification of the present application.

Certain claims, such as claim 49, recite that the information display is associated with a respective set of controllable attributes configured to affect appearance of the corresponding information display within said web browser window. Various exemplary such controllable attributes are shown as associated with the windows of Figures 2A-2B, *see e.g.*, page 15, line 28 – page 17, line 2 and page 18, line 8 – page 19, line 7, and thus no new matter is added by this limitation.

Claim 48 also recites “said software system is operable to output information ... within said at least one information display within said web browser window without requiring a refresh of said web browser window in its entirety.” No new matter is added by this amendment, as support can be found in the specification (*see e.g.*, page 16, line 7 – page 17, line 2 and Figure 5B).

II. NOTICE OF RELATED LITIGATION AND DISCUSSION OF INFORMATION DISCLOSURE STATEMENT (IDS)

Applicant hereby calls to the Examiner’s attention that certain patents related to the present application are involved in a litigation proceeding. In such litigation proceeding, a special master presented a recommendation to the court with regard to construction of various

claim terms, *see* Special Master's Report and Recommendation Regarding Claim Construction (cited as item no. CT8 in the information disclosure statement submitted March 2, 2007). The special master's recommendation has not yet been adopted by the court. Some of the claim terms construed in the special master's report were also present in the original claims of the present application (e.g., "window object" and "content"). To alleviate some of the issues raised by the special master, Applicant has canceled the original claims and presented new claims that do not use certain terms that were at issue in the special master's report (e.g., "window object" and "content").

The information available on the USPTO's PAIR system indicates that the IDS submitted on March 2, 2007 has been considered by the Examiner. If this is inaccurate, Applicant requests clarification from the Examiner.

Due to the large size of the March 2, 2007 IDS, Applicant notes, for the convenience of the Examiner, several references submitted in such IDS that may be of particular interest to the Examiner in examining the claims of the present application:

- 1) Special Master's Report and Recommendation Regarding Conception, cited as item no. CS8 on sheet 15 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO);
- 2) Special Master's Report and Recommendation Regarding Claim Construction, cited as item no. CT8 on sheet 15 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO);
- 3) Special Master's Report and Recommendation Regarding Anticipation and Obviousness, cited as item no. CV8 on sheet 15 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO);
- 4) Special Master's Report and Recommendation Regarding Inequitable Conduct, cited as item no. CW8 on sheet 15 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO);
- 5) Special Master's Report and Recommendation Regarding Enablement, cited as item no. CE7 on sheet 12 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO);

6) Special Master's Report and Recommendation Regarding Written Description, cited as item no. CF7 on sheet 12 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO);

7) Special Master's Report and Recommendation Regarding Claim Definiteness, cited as item no. CG7 on sheet 12 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO);

8) Special Master's Report and Recommendation Regarding Inventorship, cited as item no. CH7 on sheet 12 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO); and

9) Videotaped deposition of Sandro Pasquali (one of the inventors named on the present application), cited as item no. CR6 on sheet 11 of the form 1449 of the March 2, 2007 IDS, for related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO).

By noting above certain ones of the references submitted in the March 2, 2007 IDS, Applicant does not necessarily agree with or adopt any of the positions taken or conclusions reached in those references. Instead, Applicant merely notes that those references may be of particular interest to the Examiner in her consideration of the present application. In addition, by noting the above references, Applicant does not intend to detract the Examiner's attention away from or discourage the Examiner from fully considering all of the references. Again, Applicant understands that the Examiner has considered all of the references submitted in the March 2, 2007 IDS, including those specifically noted above. If this understanding is inaccurate, Applicant requests clarification from the Examiner.

In addition, Applicant also submits herewith a further IDS disclosing a recent motion for summary judgment of invalidity under 35 U.S.C. §103(a) for the related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO).

Also, Applicant hereby notifies the Examiner that Applicant has received a motion for summary judgment of no willful infringement for the related patents at issue in Civil Action Number CV 02-2748 (DRH)(MLO). However, because the issue of willful infringement is not relevant to the patentability of the claims, Applicant does not include this motion in the IDS. If the Examiner believes that such motion may be of interest or pertinent in any way to the

examination of the present application, Applicant invites the Examiner to request submission of the motion in an IDS. Applicant will submit the motion upon request from the Examiner; otherwise, the motion is believed to be immaterial to the issue of patentability of the claims in the present application.

III. REJECTIONS UNDER 35 U.S.C. § 102(b)

Claims 1-47 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Lemay*. Claims 1-47 are canceled without prejudice, and thus the rejections are now moot. However, Applicant respectfully submits that *Lemay* fails to anticipate the newly-added claims for the reasons discussed below.

A. Claims 48-59

Independent claim 48 recites “wherein said software system is operable to output information, downloaded from a network source by said web browser client via said electronic data network, within said at least one information display within said web browser window without requiring a refresh of said web browser window in its entirety” (emphasis added). *Lemay* describes “frames” available in Netscape version 2.0. *Lemay* explains that “frames, also called framesets, are used to divide a Web page’s display into multiple sections, each of which can display a different document or portion of a document.” *Lemay* at pages 172-173. However, *Lemay* provides no teaching whatsoever of such “frames” enabling output of information within one information display (e.g., within one frame) within a browser window without requiring a refresh of the web browser window in its entirety. Rather, as discussed in the background section of the present application, it appears that such frames may be used to draw pseudo-windows within a browser window. Such frames are not taught as being able to display information in one frame without requiring a refresh of all information being output in the browser window. As discussed in the background section of the present application, such browser window may be required to be completely re-drawn each time the information being displayed in one frame changes.

In view of the above, *Lemay* fails to teach all elements of claim 48, and thus claim 48 is not anticipated by *Lemay*.

Claims 49-59 depend either directly or indirectly from base claim 48, and thus inherit all of claim 48's limitations. Based on this dependency, claims 49-59 are likewise not anticipated by *Lemay* at least for the reasons discussed above with claim 48.

B. Claims 60-64

Independent claim 60 recites “displaying in one of said at least one information display said information downloaded from said network data source without requiring a refresh of said web browser window in its entirety” (emphasis added). As discussed above, *Lemay* describes “frames” available in Netscape version 2.0. However, *Lemay* provides no teaching whatsoever of displaying in one of such “frames” information received from a network data source without requiring a refresh of the web browser window in its entirety. Rather, as discussed in the background section of the present application, it appears that such frames may be used to draw pseudo-windows within a browser window. Such frames are not taught as being able to display information in one frame without requiring a refresh of all information being output in the browser window. As discussed in the background section of the present application, such browser window may be required to be completely re-drawn each time the information being displayed in one frame changes.

In view of the above, *Lemay* fails to teach all elements of claim 60, and thus claim 60 is not anticipated by *Lemay*.

Claims 61-64 depend either directly or indirectly from base claim 60, and thus inherit all of claim 60's limitations. Based on this dependency, claims 61-64 are likewise not anticipated by *Lemay* at least for the reasons discussed above with claim 60.

C. Claims 65-69

Independent claim 65 recites “wherein said processing engine is configured to display in one of said information displays information received from said one or more network data sources without requiring a refresh of information displayed in any other information displays from said one or more network data sources” (emphasis added). For reasons similar to those

discussed above, *Lemay* fails to teach at least the above limitations of claim 65. Accordingly, *Lemay* fails to teach all elements of claim 65, and thus claim 65 is not anticipated by *Lemay*.

Claims 66-69 depend either directly or indirectly from base claim 65, and thus inherit all of claim 65's limitations. Based on this dependency, claims 66-69 are likewise not anticipated by *Lemay* at least for the reasons discussed above with claim 65.

D. Claims 70-77

Independent claim 70 recites “wherein said instruction package further includes instructions, that when executed, display, in one of said at least one information display, information received by said web browser client from one or more network data sources without requiring a refresh of said web browser window in its entirety” (emphasis added). For reasons similar to those discussed above, *Lemay* fails to teach at least the above limitations of claim 70. Accordingly, *Lemay* fails to teach all elements of claim 70, and thus claim 70 is not anticipated by *Lemay*.

Claims 71-77 depend either directly or indirectly from base claim 70, and thus inherit all of claim 70's limitations. Based on this dependency, claims 71-77 are likewise not anticipated by *Lemay* at least for the reasons discussed above with claim 70.

E. Claims 78-87

Independent claim 78 recites “wherein said instruction package further includes instructions, that when executed, display, in one of said at least one information display, information received by said web browser client from one or more network data sources without requiring a refresh of said web browser window in its entirety” (emphasis added). For reasons similar to those discussed above, *Lemay* fails to teach at least the above limitations of claim 78. Accordingly, *Lemay* fails to teach all elements of claim 78, and thus claim 78 is not anticipated by *Lemay*.

Claims 79-87 depend either directly or indirectly from base claim 78, and thus inherit all of claim 78's limitations. Based on this dependency, claims 79-87 are likewise not anticipated by *Lemay* at least for the reasons discussed above with claim 78.

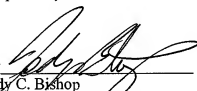
IV. CONCLUSION

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Applicant believes an RCE fee of \$405.00 is due with this response. Please charge any additional fees required or credit any overpayment to Deposit Account No. 06-2380, under Order No. 65164/P006C1C2C1/10606085 during the pendency of this Application pursuant to 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Dated: December 31, 2008

Respectfully submitted,

By 
Jody C. Bishop
Registration No.: 44,034
FULBRIGHT & JAWORSKI L.L.P.
2200 Ross Avenue, Suite 2800
Dallas, Texas 75201-2784
(214) 855-8007
(214) 855-8200 (Fax)
Attorney for Appellant